Dear Representative Kingston:

The U.S. Chamber of Commerce, the world’s largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America’s free enterprise system, thanks you for introducing H.R. 3419, the “Small Business Fairness in Obamacare Act.” This legislation would restore the longstanding definition of small businesses as defined by the Small Business Act and would exempt these businesses from the definition of an “applicable large employer” for purposes of the employer mandate. The bill also would redefine “full-time employment” in the Patient Protection and Affordable Care Act (PPACA) to be consistent with the traditional 40-hour work week.

This bill would simplify the definition of a small business by doing away with the PPACA’s new definition. The PPACA created a complicated and confusing definition that requires a new mathematical calculation to determine if a business is an “applicable large employer,” while the Small Business Act already provides a more workable definition that the business community is accustomed to and that appropriately varies based on industry. Under the employer mandate provision of the PPACA, an applicable large employer is defined as a business with 50 or more full-time equivalent employees (FTEs), implicitly redefining a small business as a business with fewer than 50 full-time equivalent employees. At a time when small businesses in particular are facing a great deal of uncertainty as they work to comply with the health care law, passing this legislation would be a critical step in helping protect employees and employers against the PPACA’s more detrimental provisions.

Additionally, this bill would restore the definition of full-time to the long-standing, widely-accepted 40-hour work week. For the first time in history, the PPACA defines a full-time employee as an individual working 30 hours per week averaged over the course of a month. With the definition as it now stands, many businesses are restructuring their workforce and reducing their employees’ hours to avoid costs that could potentially bankrupt their companies.

Indeed, a survey of small business owners with 40-500 employees released by the Chamber on November 13 with the International Franchise Association found that 31 percent of franchise businesses have already reduced worker hours because of the PPACA requirements. In
addition, 27 percent of franchise businesses have already replaced full-time workers with part-time workers, and 64 percent of business decision-makers in franchise-owned businesses believe the health care law will have a negative impact on their business.

Protecting the nation’s most at-risk small businesses and returning to the widely-accepted definition of a full-time employee would remove the barriers that are forcing many employers to reduce employee hours, restructure their workforce, and limit overall business growth. Particularly now as our economy struggles to recover, Congress must do all that it can to allow small employers to strengthen their businesses, increase the number of jobs, and employ workers in traditional full-time positions.

The Chamber continues to support health care reform that builds on and reinforces the employer-sponsored system and looks forward to working with you and your colleagues to enact this important legislation to protect the American workforce and the businesses that drive our nation’s job creation.

Sincerely,

R. Bruce Josten